

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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BRENTLOR, LTD.,

13-cv-6697 (JGK)

Plaintiff,

- against -

MEMORANDUM OPINION AND
ORDER

LAWRENCE H. SCHOENBACH, ET AL.,

Defendants.

JOHN G. KOELTL, District Judge:

The Court has received the defendants' motion to limit the plaintiff's expert testimony or, in the alternative, to vacate the trial date. The motion to preclude is **granted in part** and **denied in part**. The motion for a continuance is **denied**.

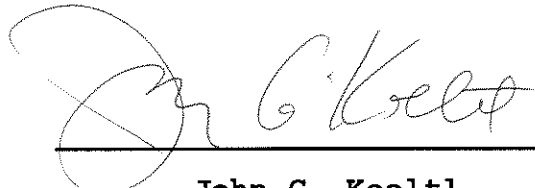
It has been clear since the telephone conference on September 23, 2016, that the purpose of the financial expert was to testify whether the substance of plaintiff's proposed exhibit 139 - which now includes the email marked as exhibit 138 - indicated that the document was not "authentic." The plaintiff argued that the alleged bank document was a transparent fraud on its face, but counsel argued that he needed an expert witness to make that point. This was in addition to determining whether the document was in fact received by Mr. Schoenbach on the date he represented he received the document. That scope is reflected in the Introduction to the Expert Report at p. 2. It is also the substance of much of the opinion expressed as to Question One of

the Expert Report. However, the opinions expressed as to Questions Two and Three of the Expert Report go beyond the purpose for which the expert was to be retained and the motion to preclude the expert from giving opinions on those subjects is granted. Indeed, some of those opinions - such as an analysis of what Mr. Schoenbach must have known - would be independently excludable as beyond the competence of an expert. The opinions as to Questions Two and Three of the Expert Report are therefore excluded. The opinions as to Question One are not excluded except for the final two paragraphs on page 8. The Court is prepared to address with the parties any specific objections to portions of Question One.

Because the bulk of Question One of the expert's testimony is well within the scope of the expert testimony about which the defendants were aware since September, 2016, the motion for a continuance, which was in any event in the alternative, is **denied.**

SO ORDERED.

**Dated: New York, New York
December 3, 2016**



**John G. Koeltl
United States District Judge**